

### REMARKS

Claims 1 to 11 have been previously canceled and claims 22 to 29 have been amended to depend from claim 21 as was originally intended and as should have been apparent in view of the statement at page 7, last paragraph of the prior response.

Accordingly, the amendment to the claims does not and cannot be stated to raise new issues or require new search in the event the remarks in the prior response were read. Claims 12 to 29 remain active in this application.

Claims 12, 14 to 18, 20 and 21 were rejected under 35 U.S.C. 102(b) as being anticipated by Chen al. (U.S. 5,866,945). The rejection is respectfully traversed.

It is respectfully submitted that applicant can swear back of Chen et al., if necessary, however this has not been done since Chen et al. fails as a proper reference as is demonstrated hereinbelow.

Claim 12 requires, among other steps, providing a semiconductor device having at least one metal layer completed, then applying a planarizing dielectric layer on top of the semiconductor device and then providing a hydrogen treatment until hydrogen diffuses throughout the semiconductor device. No such steps are taught or suggested by Chen et al.

As stated at page 9, lines 10ff, "an H<sub>2</sub> bake is done until H<sub>2</sub> completely saturates and protects semiconductor device 10". The method of the present invention prevents or minimizes CHC degradation by preventing contaminants from causing such degradation. It is apparent that Chen et al. not only does not recognize the fact that degradation can be caused by contaminants, but, in addition, Chen et al. nowhere teach or suggest that the entire semiconductor device be treated with the hydrogen diffusion to alleviate this problem. It

follows that neither the above noted step nor the combination of steps as claimed is taught or even suggested by Chen et al.

Claim 14 to 18 and 20 depend from claim 12 and therefore define patentably over Chen et al. for at least the reasons presented above with reference to claim 12.

Claim 21 contains the same feature discussed above with reference to claim 12 and is broader. Accordingly, the arguments presented above with reference to claim 12 apply as well to this claim.

Claims 10 to 13 and 20 were rejected under 35 U.S.C. 102(b) as being anticipated by Fukuda et al. (JP 407074167). The rejection is respectfully traversed.

The rejection of claims 10 and 11 is not understood since these claims were previously cancelled.

With reference to claim 12, in addition to the argument previously presented, which are repeated and incorporated by reference, the argument presented above also apply since Fukuda et al. also fails as a proper reference as to the invention claimed for the same reasons as set forth above with reference to Chen et al.

Claims 13 and 20 depend from claim 12 and therefore define patentably over Fukuda et al. for at least the reasons presented above with reference to claim 12.

With reference to the rejection of claims 22 to 29 on the ground of double patenting, it is respectfully submitted that there was a requirement for restriction in the parent application between claims 1 to 9 and claims 10 to 20, claims 21 to 29 claiming the same invention as claims 12 to 20 except for the omission of one of the steps which relates to a feature nowhere taught or suggested by the prior art as demonstrated above. The basis for

the requirement for restriction appears to be upon the preamble in view of the position taken by the examiner in this application and presumably in the prior application. Accordingly, since the preamble in all of the claims in this application is the same, all of the claims of this application must be to the same invention which is different from the invention claimed in the parent application in which the requirement for restriction was made. Accordingly, in view of 35 U.S.C. § 121, this rejection is improper and therefore respectfully traversed.

Claims 13 and 19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. The rejection is respectfully traversed.

Claims 13 and 19 depend from claim 12 and therefore define patentably over Chen et al. for at least the reasons presented above with reference to claim 12.

Claim 14 was rejected under 35 U.S.C. 103(a) as being unpatentable over Fukuda in view of Wu et al. (U.S. 5,796,150). The rejection is respectfully traversed.

Claim 14 depends from claim 12 and therefore defines patentably over the applied references for at least the reasons presented above with reference to claim 12 since Wu et al. fails to overcome the deficiencies in Fukuda et al. as noted above.

Claims 22 to 29 have not been rejected other than for double patenting, the basis of which is improper as noted above and must therefore be assumed to be allowed subject to withdrawal of the improper double patenting rejection.

In view of the above remarks, favorable reconsideration and allowance are respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jay M. Cantor".

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